

## § 127.21

any duties due have been paid, such merchandise will be sold as provided in subpart C of this part, retained for official use as provided in subpart E of this part, destroyed, or otherwise disposed of as authorized by the Commissioner of Customs under the law, unless the merchandise is entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(2) *Destruction of merchandise*—(i) *Proprietor responsibility*. If the port director concludes that merchandise in general order has no commercial value or is otherwise unsalable and cannot be disposed of at public auction (*see* § 127.29), and that its destruction is warranted, the warehouse proprietor must assume responsibility under bond, including the expense, for destroying the merchandise (*see* § 113.63(c)(3) of this chapter). The port director will authorize such destruction on Customs Form (CF) 3499, or on a similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs.

(ii) *Notice of destruction*. Before destroying the merchandise, the warehouse proprietor must first make a reasonable effort under bond (*see* § 113.63(b) and (c) of this chapter), to identify and inform the importer (owner) or consignee regarding the intended destruction of the merchandise. When the appropriate party is identified, notice of destruction will be provided to the party on Customs Form (CF) 5251, appropriately modified, or other similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs, at least 30 calendar days prior to the date of intended destruction.

(b) *Entry of merchandise subject to sale*. Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b))), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor*. The following merchandise

## 19 CFR Ch. I (4–1–13 Edition)

for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid.

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 75–161, 40 FR 28790, July 9, 1975; T.D. 79–221, 44 FR 46814, Aug. 9, 1979; T.D. 82–204, 47 FR 49375, Nov. 1, 1982; T.D. 02–65, 67 FR 68034, Nov. 8, 2002]

### Subpart C—Sale of Unclaimed and Abandoned Merchandise

#### § 127.21 Time of sale.

All unclaimed and abandoned merchandise will be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the port director. Regular sales shall be made once every year or more often at the discretion of the port director.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 02–65, 67 FR 68034, Nov. 8, 2002]

#### § 127.22 Place of sale.

The port director, in his discretion, may authorize the sale of merchandise subject to sale (including explosives, perishable articles and articles liable to depreciation) at any port. The consignee of any merchandise which is to be transferred from the port where it was imported to another port for sale, shall be notified of the transfer so that he may have the option of making entry of the merchandise before the transfer and sale.

[T.D. 95–77, 60 FR 50020, Sept. 27, 1995]

#### § 127.23 Appraisement of merchandise.

Before unclaimed and abandoned merchandise is offered for sale, it shall be appraised in accordance with sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Such merchandise shall also be appraised at